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10/633,948	08/04/2003	William Gamble	GAMB-0001	5198

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EXAMINER	
WOODS, ERIC V	

ART UNIT	PAPER NUMBER
2672	

DATE MAILED: 12/17/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/633,948	GAMBLE, WILLIAM	
	Examiner	Art Unit	
	Eric V Woods	2672	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *04 August 2003*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☒ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *4 August 2003* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because the title is restated at the beginning and, as such, is redundant. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

3. Claims 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yokouchi (US 2001/0004258 A1)('Yokouchi') in view of Anderson et al (US 2003/0206316 A1)('Anderson'). [Please note: for all the claims below, examiner will be using the term "template" as synonymous with the "composite image template" of applicant because all the references utilized by Examiner use the term "template" in that context, and all the templates discussed or disclosed in references will be for combining images, thus such templates are *prima facie* "composite image templates".][Claims 11 and 16 and their dependent claims are rejected under the same arguments and references as claim 1; claim 11 merely recites a system implementing the method of claim 1, and claim 16 is software implementing the method of claim 1, which is a *prima facie* obvious variation, as both references utilized in these rejections teach software (Anderson 0003, 0030, etc.; Yokouchi all claims (pg. 11, they all recite computer-

readable medium). Therefore, such rejections are binding on claims 11 and 16 and their dependent claims without further comment.]

As to claims 1, 11, and 17,

A method of creating a composite image, comprising:

-Providing a composite image template that includes at least one image area; (Anderson 0003, Fig. 6, Fig. 11, etc.; Yokouchi Figs. 27 and 30, multiple image areas provided, 0009, 0012 and many others) and

-Associating at least one image with the at least one image area (Anderson Figs. 6 and 7 for example (0038, 0042-0044, etc.); Yokouchi 0138-0141, pictures P0 (background) from Fig. 3 and picture P1 from Fig. 5 are composited with P1 being put into the location specified by the user); and

-Saving the composite image based on the composite image template and the at least one image (0047 Anderson, and Fig. 1 Anderson, where images are initially stored in camera storage 120 and merged with templates from the template storage 150 and saved in the computer 130.).

Reference Yokouchi teach all the limitations of the claim, with the individual claim limitations addressed specifically above. Yokouchi never explicitly teaches saving the image. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the image templates of Yokouchi with those of Anderson, since Anderson explicitly teaches saving images, which would allow manipulation of the composited images at a later time, and their use in later templates,

as well as utilizing the three-layer image compositing scheme, which would allow the use of multi-layer templates, which would be an important improvement over Yokouchi.

As to claims 2, 12, and 18,

The method of claim 1, further comprising generating a composite image template file that describes the composite image template (Anderson 0012, 0014, 0023).

Reference Yokouchi does not this limitation explicitly, but rather implicitly as in 0014-0017, where the template files are taught to have several portions that describe various aspects of the images and file. Anderson teaches this limitation as cited above, where composite image files are referred to as well as methods for creating such files. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the image templates of Yokouchi with those of Anderson, since Anderson explicitly teaches saving images, which would allow manipulation of the composited images at a later time, and their use in later templates, as well as utilizing the three-layer image compositing scheme, which would allow the use of multi-layer templates, which would be an important improvement over Yokouchi.

[Note that for claim 12's additional limitation of having the image display system use the composite image template file, this is a trivial modification, and further the system of Yokouchi teaches in Fig. 1 that a monitor 8 is used, which is controlled by the "composition means" 5 and pulls the files from the template storing means 1, which fulfills any additional limitations of claim 12. Further, the term "uses" in this context can only be taken to mean that the image display system displays the template file, as well as using it as a file descriptor.]

As to claim 3,

The method of claim 2, wherein the generating step includes adding a first image area to the composite image template.

Reference Yokouchi teaches all the limitations of this claim, for example 0036-0040, where 0037 sets a valid area in a two-dimensional plane and 0038 sets layout areas in the valid area and so forth. Since only the primary reference is cited, no separate combination or motivation is necessary and that of the parent claim is adopted via incorporation without further comment.

As to claim 4,

The method of claim 3 wherein the generating step further includes adding a second image area to the composite image template.

Reference Yokouchi teaches all the limitations of the claim, as in claim 3 (0036-0040) various methods of laying out images, and in 0038, layout areas in the valid two dimensional image area are created – specifically, "specifying a plurality of layout areas" and "specifying the plurality of layout images laid out in the respective layout areas." These are clearly cited as part of creating a composite image template. Since only the primary reference is cited, no separate combination or motivation is necessary and that of the parent claim is adopted via incorporation without further comment.

As to claim 5,

The method of claim 4, where the second image area and the first image area overlap.

Reference Yokouchi teaches all the limitations of the claim. For example, Figs. 47A and 47B are specified to have overlapping images (0009) and prior art is disclosed

by Yokouchi to have overlaps. In 0078 and 0178, it is specified that since the images are inserted one at a time, none of them overlap – but the important distinction is that **none of the images overlap because they are inserted one at a time to allow the user to control positioning and overlap during the compositing process**. In any case, in light of the prior art revealed by Yokouchi (under MPEP 2123, patents are relevant for all they contain and disclose, including prior or conventional art) it would have been obvious to modify the compositing process of Yokouchi to include the ability to have overlapping images after compositing – e.g. each element would be laid out in layers so that they could be seen individually without the alpha-channel bleeding problem of the prior art.

As to claim 6,

The method of claim 2, wherein the generating step includes selecting background attributes of the composite image template.

Yokouchi teaches layout areas and insertion areas for images, which implicitly fulfill all the limitations of this claim. Reference Anderson explicitly teaches this limitation, as in Fig. 3 where it is shown that Anderson's templates have three layers – element 310, the foreground, element 320, the actual image, and element 330 the background (0032). Each layer can be independently specified – see Figs. 5A and 5B where the background plane is specified to have either a plurality (5A) or one (5B) graphic files in that layer. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the image templates of Yokouchi with those of Anderson, since Anderson explicitly teaches specifying the background layer,

which would allow manipulation of the composited images at a later time, and their use in later templates, as well as utilizing the three-layer image compositing scheme, which would allow the use of multi-layer templates, which would be an important improvement over the semi-layered layout of Yokouchi, which would gain additional versatility by allowing the use of explicit foreground and background layers.

As to claim 7,

The method of claim 2, wherein the generating step includes adding at least one template image file to the composite image template.

In the broadest sense, Yokouchi defines a template in 0005. However, Yokouchi further enhances that description such that a template contains descriptive language (e.g. 0037-0042, for example) the position of all the images, the layout areas, etc, and *prima facie* the system can combine multiple images, backgrounds, etc. In light of Anderson, which teaches the combination of multiple layers of images (see rejection for claim 6), obviously previously rendered composite images could be combined in the same way. Given that Yokouchi basically states that templates are reduced to editing descriptions (mentioned 0120), it would be obvious to modify the system such that templates could be combined. Each template would have its own editing descriptions and page language descriptors, which would yield easy combinations of templates to get a final product – just as two composited images can further be combined or composited, two templates can obviously be processed in the same way.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the image templates of Yokouchi with those of

Anderson, since Anderson explicitly teaches specifying the background layer, which would allow manipulation of the composited images at a later time, and their use in later templates, as well as utilizing the three-layer image compositing scheme, which would allow the use of multi-layer templates, with the emphasis that the editing descriptions – essentially a page description language, or some kind of overall format (e.g. XML), would allow the production and combining of previously existing templates as discussed above, which would give the system of Yokouchi increased versatility since it would be easy to combine excellent past works and produce a superior new product template.

As to claim 8,

The method of claim 1, further comprising adjusting the at least one image to conform to the associated image area.

Reference Yokouchi does not explicitly teach this limitation. Reference Anderson teaches in Figs. 8A-8C the adjustment of an image to fit the image area that it would go in, and further teaches the use of cropping, rotating, skewing, etc (0003) to make images fit in specified image areas in templates.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the image templates of Yokouchi with those of Anderson, since Anderson explicitly teaches adjusting the image to fit in the area – that is, allowing the user to adjust it to their preferences, not having such an action done automatically, which would greatly enhance the functionality of Yokouchi and enable it to accommodate oddly shaped images and allow the user more control over the final

composite image, as that is the stated goal (and differentiation from the prior art) of both Yokouchi and Anderson.

As to claim 9,

The method of claim 8, wherein the adjusting step comprises at least one of: clipping, rotating, stretching, and skewing the at least one image.

Reference Yokouchi does not explicitly teach this limitation. Reference Anderson teaches in Figs. 8A-8C the adjustment of an image to fit the image area that it would go in, and further teaches the use of cropping, rotating, skewing, etc (0003) to make images fit in specified image areas in templates. (Same as claim 8, the image manipulation is the only difference).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the image templates of Yokouchi with those of Anderson, since Anderson explicitly teaches adjusting the image to fit in the area – that is, allowing the user to adjust it to their preferences, not having such an action done automatically, which would greatly enhance the functionality of Yokouchi and enable it to accommodate oddly shaped images and allow the user more control over the final composite image, as that is the stated goal (and differentiation from the prior art) of both Yokouchi and Anderson.

As to claim 10,

The method of claim 1, wherein the saved composite image comprises an image file.

Reference Yokouchi does not this limitation explicitly. Anderson teaches this limitation as cited above, where composite image files are referred to as well as

methods for creating such files. Anderson explicitly teaches saving files (0047) and it is so well known in the art as to be a fundamental to save images after processing, and in Figs. 6A and 6B Anderson shows how each layer can be composed of one or a plurality of image files that *prima facie* would have been saved or stored somewhere. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the image templates of Yokouchi with those of Anderson, since Anderson explicitly teaches saving images (0047, image files are stored separately from combination instructions), which would allow manipulation of the composited images at a later time, and their use in later templates, as well as utilizing the three-layer image compositing scheme, which would allow the use of multi-layer templates, which would be an important improvement over Yokouchi.

As to claims 13 and 19,

The system of claim 12, wherein the template definition system includes:

-A template display system for displaying the composite image template; (Yokouchi 0014-0017, the template files are described and *prima facie* the image composition means 5 in Fig. 1 would display the templates from the template storing means 1 on the monitor 10, and further in 0129, Yokouchi discloses the display of images during the composition process.]

-A background system for selecting background attributes of the composite image template [Yokouchi teaches the ability to add various background components (0135), e.g. the white fringe shown in Fig. 7. Anderson teaches in Fig. 3 the use of multiple layers for compositing templates, one of which is the background, and is independently

selectable and configurable; in Figs. 6A and 6B, the background is shown as having one or a plurality of images composing it, and in Figs. 6 and 7 the layout tool and layout of the images on the background is shown];

-An image area system for adding an image area to the composite image template (Reference Yokouchi teaches this limitation, for example 0036-0040, where 0037 sets a valid area in a two-dimensional plane and 0038 sets layout areas in the valid area and so forth);

-A template file system for saving the composite image template as a composite image template file (Fig. 1 of Yokouchi shows a template storing means 1; Fig. 2 of Anderson shows templates stored in printer storage 250. Further, Anderson 0006-0007 and 0031 teaches an object-based template model. Finally, for templates to be used after composition they must be saved, and saving files is a fundamental of computer-based art. If necessary, it would have been trivially, *prima facie* obvious to modify the software of Anderson and Yokouchi to do so. Finally, the use of a template storing means clearly requires and inherently has a "template file system" as the term "file system" is conventionally used in the computer art.)

Reference Yokouchi does not explicitly teach the ability to completely, independently select background components, but explicitly teaches all other limitations. Reference Anderson explicitly teaches the ability to select backgrounds for templates independently. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the image templates of Yokouchi with those of Anderson, since Anderson explicitly teaches saving images (0047, image files are

stored separately from combination instructions), which would allow manipulation of the composited images at a later time, and their use in later templates, as well as utilizing the three-layer image compositing scheme, which would allow the use of multi-layer templates, which would be an important improvement over Yokouchi.

As to claim 14,

The system of claim 13, wherein the template definition system further includes a template image system for associating a template image file with the composite image template.

Reference Yokouchi does not explicitly teach this limitation, although implicitly teaching it (for example, the addition of the white fringe to Fig. 7, as discussed in 0135). Reference Anderson clearly teaches (0006-0007, 0031-0034) that image files are associated with plane files for template construction via a system of tags embedded in the files. This clearly meets the above-recited limitations; also, Anderson in Figs. 6A and 6B clearly shows how each plane file can have one or a plurality of image files associated with it. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the image templates of Yokouchi with those of Anderson, since Anderson explicitly teaches saving images (0047, image files are stored separately from combination instructions), which would allow manipulation of the composited images at a later time, and their use in later templates, as well as utilizing the three-layer image compositing scheme, which would allow the use of multi-layer templates, which would be an important improvement over Yokouchi. [System limitation is no different than method, as both are implemented in software, and it is a

fundamental of the software art that one can build software having any combination of modules that will perform the same functions, thus taking care of any potential limitations there.]

As to claim 15,

The system of claim 11, wherein the association system displays the associated at least one image within the at least one image area.

Reference Yokouchi very clearly teaches in 0134-0137 that associated images are displayed in the target area, with a result or example being Fig. 13. Since only the primary reference is utilized, no separate motivation or combination is required and that of the parent claim is hereby incorporated by reference without further comment.

As to claims 16,

The system of claim 11, further comprising a thumbnail system for displaying a template image that is associate with the composite image template.

Reference Yokouchi very clearly teaches a thumbnail system for displaying composite image templates in Fig. 11 and discusses the system in 0130 and provides examples of its use in 0137-0138. Since only the primary reference is utilized, no separate motivation or combination is required and that of the parent claim is hereby incorporated by reference without further comment.

As to claim 20,

The program product of claim 18, further comprising program code for displaying a template image that is associated with the composite image template.

Reference Yokouchi very clearly teaches a thumbnail system for displaying composite image templates in Fig. 11 and discusses the system in 0130 and provides examples of its use in 0137-0138. This would comprise displaying a template image that is associated with the composite image template. Reference Anderson clearly teaches (0006-0007, 0031-0034) that image files are associated with plane files for template construction via a system of tags embedded in the files. This clearly meets the above-recited limitations; also, Anderson in Figs. 6A and 6B clearly shows how each plane file can have one or a plurality of image files associated with it. In Fig. 6, the images that make up the background are displayed. It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the image templates of Yokouchi with those of Anderson, since Anderson explicitly teaches saving and displaying images (0047, image files are stored separately from combination instructions), which would allow manipulation of the composited images at a later time, and their use in later templates, as well as utilizing the three-layer image compositing scheme, which would allow the use of multi-layer templates, which would be an important improvement over Yokouchi. [Software is no different than method, as both are implemented in software, and it is a fundamental of the software art that one can build software having any combination of modules that will perform the same functions, thus taking care of any potential limitations there. Also, as discussed in the rejection to claim 16, both references teach software anyway, and software can be configured to have any desired number of modules or code, so as long as the functionality is achieved, the structure of the software is irrelevant.]

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric V Woods whose telephone number is 703-305-0263. The examiner can normally be reached on M-F 7:30-5:00 alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Razavi can be reached on 703-305-4713. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Eric Woods

December 3, 2004

JEFFERY BRIER
PRIMARY EXAMINER